THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 7218 of 1996

DATED: 26-12-2005

BETWEEN:

Harijana Kuntenna and another … Petitioners

And

The Mandal Revenue Officer

And three others … Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 7218 of 1996

ORDER:

The prayer in the writ petition is

"To issue a writ, order or direction, one in the nature of Writ of Mandamus directing the 1st respondent to dispose of the representations of the petitioners by conducting enquiry under Act 9 of 1977 and transfer the pattas in respect of lands admeasuring Ac.10.00 in S.No.348/2, Ipperu village, Kudair Mandal, Anantapur District in favour of petitioners and pass such other order or orders in the interest of justice".

2. The case of the petitioners, as disclosed from the averments in the affidavit filed in support of this petition, in brief, is that their father was assigned Ac.10.00 cents of

land in S.No.348/2 of Ipperu village by the Tahsildar, Anantapur vide his proceedings DAR/Disc/2628 dated 15-04-1952 and eversince then their father and after him they have been in enjoyment of the said land and about 4 years prior to the filing of this petition when second respondent, who is a rich landlord, tried to interfere with their possession over that land stating that he purchased the said land from their father, they prevented him from interfering with their possession, but from a few months prior to the filing of this writ petition, respondents 3 and 4 claiming that they have purchased the said land from the second respondent are trying to interfere with their possession over the said land and so they made a request to the Mandal Revenue Officer

(1st respondent) to mutate their name in the revenue records and transfer the pattas in their name, but he at the instance of respondents 2 and 3, is not taking any action on their petition and hence this petition.

First respondent did not file a counter affidavit.

3. The contention of the learned counsel for the petitioners is that since the first respondent is not passing any orders on the representation made by the petitioners, a direction may be given to the first respondent to make an enquiry and pass appropriate orders.

The learned Assistant Government Pleader sought time to verify from the Mandal Revenue Officer, if any representation is made by the petitioners.

4. I find no grounds to grant any time to the Assistant Government Pleader because this petition is filed about 10 years back and till now first respondent did not choose to file his counter affidavit.

5. Petitioners did not file copies of the representations said to have been made by them to the first respondent. Question of conducting an enquiry, under A.P. Act 9 of 1977, for mutating the names of the petitioners in the revenue records does not arise, because there is no such provision in A.P. Act 9 of 1977. Enquiry contemplated under the said Act relates to alienation of a land assigned to a landless poor person with a condition prohibiting alienation. Enquiry relating to acquisition of a right in a land by way of succession would be under the provisions of the A.P. Rights in land and pattadar Pass book Act, 1971 (A.P. Act 26 of 1971). Affidavit filed in support of this petition is mute about the petitioners filing an

application under A.P. Act 26 of 1971.

6. The main grievance of the petitioners is about respondents 2 to 4 interfering with their possession. So their remedy is to file a suit in a civil court for appropriate relief against them.

7. Since no enquiry relating to acquisition of a right through succession can be made under A.P. Act 9 of 1977 petitioners are not entitled to any relief in this petition. If petitioners were to file an application for mutation of their names as per A.P. Act 26 of 1971 before the first respondent, he, after making such enquiry as he deems fit as per the provisions of the said Act can pass appropriate orders.

8. Hence petition is dismissed. No costs.

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C.Y. SOMAYAJULU, J.

Dated: 26-12-2005

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